

21 C.J.S. Courts § 127

Corpus Juris Secundum | May 2023 Update

Courts

M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Amy G. Gore, J.D., of the staff of the National Legal Research Group, Inc; and Lonnie E. Griffith, Jr., J.D.

III. Creation and Constitution; Officers of Courts

B. Nonjudicial Officers and Employees Generally; Interpreters

2. Probation Officers

§ 127. Liabilities

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#)  55

A probation officer who exercises a judicial function or discretionary judgment within the scope of employment is immune from liability for negligence.

A probation officer who exercises a judicial function,¹ or discretionary judgment,² within the scope of employment is immune from liability for negligence. However, such officer is liable for injuries resulting from the negligent performance of ministerial acts,³ or acts that are not connected with the performance of judicial functions,⁴ and for acts that are outside of statutory authority.⁵ Probation officers generally are not immune in performing their enforcement duties.⁶

A probation officer is absolutely immune for the officer's testimonial function and prosecutorial function.⁷ Probation officers are entitled to absolute immunity for injuries resulting from the preparation and submission of presentence reports.⁸

Westlaw. © 2023 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

Footnotes

- 1 Ill.—Richardson v. Grundel, 85 Ill. App. 3d 46, 40 Ill. Dec. 569, 406 N.E.2d 575 (3d Dist. 1980).
- 2 U.S.—Weinberger v. State of Wis., 906 F. Supp. 485 (W.D. Wis. 1995), judgment *aff'd*, 105 F.3d 1182 (7th Cir. 1997) (applying Wisconsin law).
- 3 Ill.—Richardson v. Grundel, 85 Ill. App. 3d 46, 40 Ill. Dec. 569, 406 N.E.2d 575 (3d Dist. 1980).
- 4 Ariz.—Acevedo by Acevedo v. Pima County Adult Probation Dept., 142 Ariz. 319, 690 P.2d 38, 44 A.L.R.4th 631 (1984).
- 5 N.H.—Pouliot v. Hodgdon, 119 N.H. 437, 402 A.2d 199 (1979).
- 6 S.C.—Faile v. South Carolina Dept. of Juvenile Justice, 350 S.C. 315, 566 S.E.2d 536 (2002).
- 7 U.S.—Schiff v. Dorsey, 877 F. Supp. 73 (D. Conn. 1994).
- 8 Ariz.—Desilva v. Baker, 208 Ariz. 597, 96 P.3d 1084 (Ct. App. Div. 1 2004).

End of Document

© 2023 Thomson Reuters. No claim to original U.S.
Government Works.